## **Officer History**

Officer Name: Tofalli, Andrew

 Tax ID:
 955584
 Sex:
 M

 Shield:
 26431
 Race:
 White

**Rank:** POM **Command:** 077

**DOB:** Appt Date: 07/09/2013

Age: Tenure: 7

| CCRB#     | Report Date | <b>Incident Date</b> | Allegation                                 | Disposition      | NYPD<br>Disposition | NYPD<br>Penalty | Command |
|-----------|-------------|----------------------|--|------------------|---------------------|-----------------|---------|
|           |             |                      |  |                  |                     |                 |         |
| 201909824 | 11/11/2019  | 10/01/2019           | OMN - Failure to prepare a memo book entry | Other Misconduct |                     |                 | 077     |
|           | 11/11/2019  | 10/01/2019           | OMN - Improper use of bodyworn camera      | Other Misconduct |                     |                 | 077     |
| 202100558 | 01/25/2021  | 01/07/2021           | Abuse - Failure to provide RTKA card       |                  |                     |                 | 077     |
|           | 01/25/2021  | 01/07/2021           | Abuse - Search (of person)                 |                  |                     |                 | 077     |
|           | 01/25/2021  | 01/07/2021           | Abuse - Stop                               |                  |                     |                 | 077     |
| 202100913 | 02/01/2021  | 03/05/2020           | Abuse - Search (of person)                 |                  |                     |                 | 077     |
|           | 02/01/2021  | 03/05/2020           | Abuse - Stop                               |                  |                     |                 | 077     |
|           | 02/01/2021  | 03/05/2020           | Abuse - Failure to provide RTKA card       |                  |                     |                 | 077     |
|           | 02/01/2021  | 03/05/2020           | Force - Hit against inanimate object       |                  |                     |                 | 077     |

Total Charges = 10 Total Cases = 4

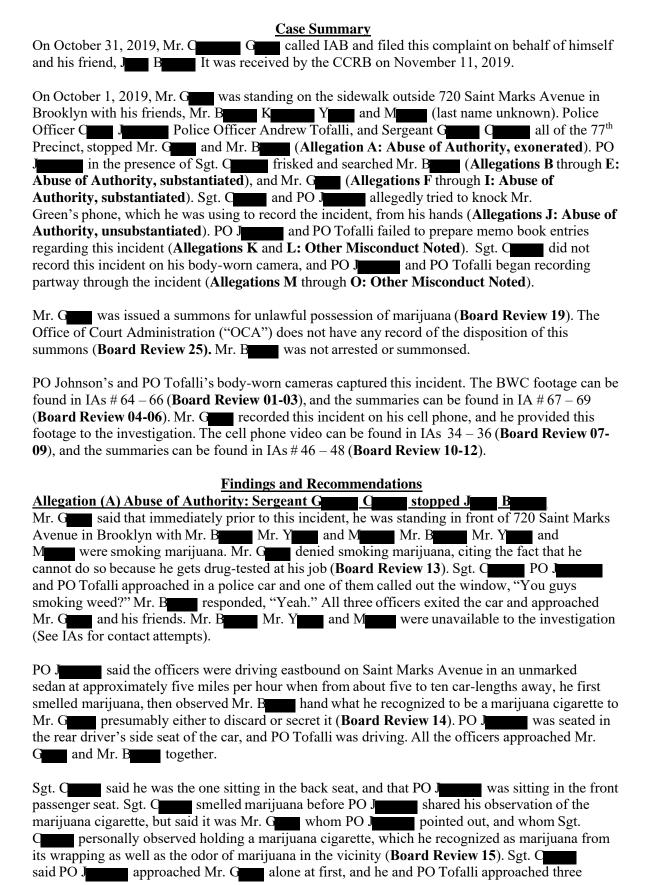
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CCRB CTS - Confidential Page 1 of 1

## CCRB INVESTIGATIVE RECOMMENDATION

| Investigator:           |                        | Team:   | CCRB Case #:           | □ F   | Force     | □ D     | iscourt.  | U.S.       |
|-------------------------|------------------------|---|------------------------|-------|-----------|---------|-----------|------------|
| Caroline Moses          |                        | Squad #13   | 201909824              | ☑ A   | Abuse     | □ O     | ).L.      | ☐ Injury   |
| Incident Date(s)        |                        | Location of Incident:                             |                        | Pro   | ecinct:   | 18 M    | o. SOL    | EO SOL     |
| Tue, 10/01/2019 5:00 PM |                        | In front of 720 Saint Ma                          | arks Avenue            |       | 77        | 04/0    | 1/2021    | 11/16/2021 |
| Date/Time CV Reported   |                        | CV Reported At:                                   | How CV Reported:       | : [   | Date/Time | Receive | ed at CCF | ₹B         |
| Thu, 10/31/2019 8:26 AM |                        | IAB   | Phone                  | N     | Mon, 11/1 | 1/2019  | 11:59 AN  | 1          |
| Complainant/Victim      | Type                   | Home Addre  | SS                     |       |           |         |           |            |
| 1. C                    | Comp/Vi                | ctim  |                        |       |           |         |           |            |
| 2. J B                  | Victim                 | Unknown   |                        |       |           |         |           |            |
| Witness(es)             |                        | Home Addre  | ss                     |       |           |         |           |            |
| 1. K                    |                        |   |                        |       |           |         |           |            |
| 2. M Unknown            |                        | Unknown   |                        |       |           |         |           |            |
| Subject Officer(s)      | Shield                 | TaxID   | Command                |       |           |         |           |            |
| 1. SGT G                |                        |   | 077 PCT                |       |           |         |           |            |
| 2. POM C                |                        |   | 077 PCT                |       |           |         |           |            |
| 3. POM Andrew Tofalli   | 26431                  | 955584  | 077 PCT                |       |           |         |           |            |
| Officer(s)              | Allegatio              | n   |                        |       | Inve      | stigato | r Recon   | nmendation |
| A . SGT G               | Abuse of B             | Authority: Sergeant G                             | C stopped              | d J   | A . 1     | Exonera | ated      |            |
| B. SGT G                | Abuse of B             | Authority: Sergeant G                             | C frisked              | l J   | В. S      | Substan | ntiated   |            |
| C. POM C                | Abuse of B             | Authority: Police Office                          | er C J fri             | isked | C. S      | Substan | itiated   |            |
| D . SGT G               | Abuse of               | Authority: Sergeant G                             | C searche              | ed J  | D. S      | Substan | ntiated   |            |
| E. POM C                | Abuse of               | Authority: Police Office                          | er C se                | arche | ed E.S    | Substan | tiated    |            |
| F. SGT C                | Abuse of               | Authority: Sergeant G                             | C frisked              | l     | F. S      | Substan | tiated    |            |
| G . POM C               | Abuse of               | Authority: Police Office                          | er C J fri             | isked | G . S     | Substan | ntiated   |            |
| H. SGT G                | Abuse of               | Authority: Sergeant G                             | C searche              | ed    | Н. 5      | Substan | ntiated   |            |
| I . POM C               | Abuse of               | Authority: Police Office                          | er C se                | arche | ed I.S    | ubstant | iated     |            |
| J. SGT G                | Abuse of               | Authority: Sergeant G<br>Green's use of a recordi |                        | red w | ith J. U  | Jnsubst | antiated  |            |
| K . SGT G               | Other: Se<br>book entr | rgeant G C f<br>y as required.                    | ailed to prepare a m   | emo   | K. (      | Other N | Miscondu  | ıct        |
| L . POM Andrew Tofalli  |                        | lice Officer Andrew Took entry as required.       | falli failed to prepar | e a   | L. (      | Other M | Iiscondu  | ct         |

| Officer(s)             | Allegation   | Investigator Recommendation |
|------------------------|--|-----------------------------|
| M . SGT G              | Other: Sergeant G C improperly used his bodyworn camera according to Patrol Guide Procedure 212-123.                   | M . Other Misconduct        |
| N . POM C              | Other: Police Officer C improperly used his body-worn camera according to Patrol Guide Procedure 212-123.              | N . Other Misconduct        |
| O . POM Andrew Tofalli | Other: Police Officer Andrew Tofalli improperly used his body-worn camera according to Patrol Guide Procedure 212-123. | O . Other Misconduct        |



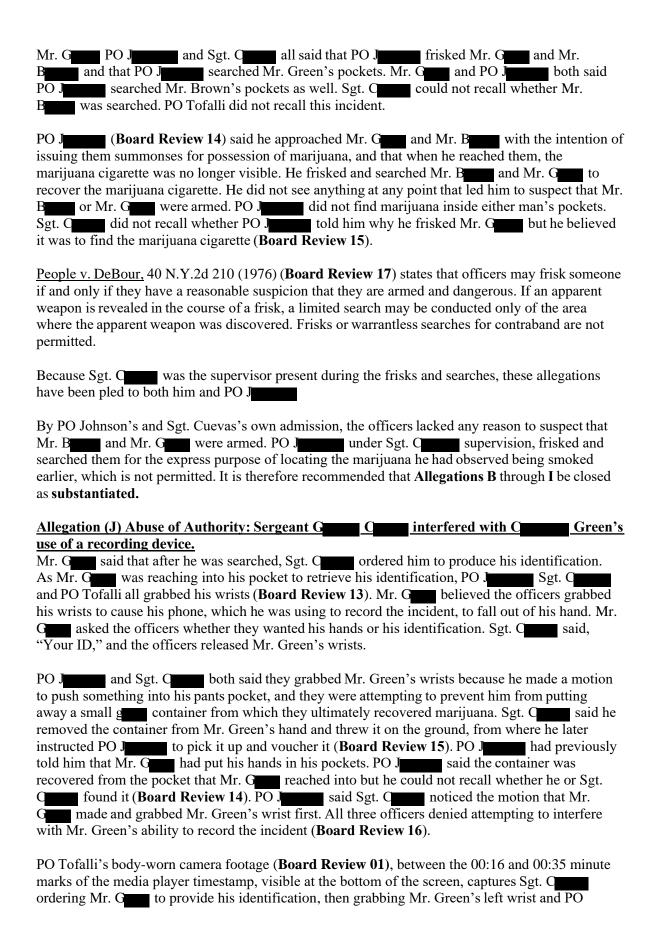
CCRB CTS – Confidential Page 1

but later decided he and PO Tofalli should join him once Mr. Gette began to raise his voice. PO Tofalli did not recall this incident (Board Review 16), and the BWC footage does not capture this portion of the incident. People v. DeBour, 40 N.Y.2d 210 (1976) (**Board Review 17**) states that officers may stop a person if there exists reasonable suspicion that the person has committed, is committing, or is about to commit a crime. A person is guilty of unlawful possession of marijuana in the second degree when he knowingly and unlawfully possesses marijuana. New York Penal Law, Section 221.05 (Board Review 18). It is undisputed that marijuana was being consumed immediately prior to this incident, though who was smoking the marijuana remains in dispute. (Mr. G was summonsed for smoking marijuana, so no stop allegation has been pled for him, as his denial amounts to a summons dispute). However, given that Mr. G and PO J both said that Mr. B who did not receive a summons as a result of this incident, was smoking marijuana, the investigation determined that he was. Because a preponderance of the evidence indicates that Mr. Bears was observed smoking a marijuana cigarette immediately prior to being stopped, Sgt. C PO J and PO Tofalli were justified in stopping him for possession of marijuana. (Because Sgt. C) was the supervisor present during the stop, this allegation has been solely pled to him.) It is therefore recommended that Allegation A be closed as exonerated. Allegation (B) Abuse of Authority: Sergeant G frisked J Allegation (C) Abuse of Authority: Police Officer C frisked J Allegation (D) Abuse of Authority: Sergeant G searched J Allegation (E) Abuse of Authority: Police Officer C searched J Allegation (F) Abuse of Authority: Sergeant G frisked C Allegation (G) Abuse of Authority: Police Officer Cara James frisked C Allegation (H) Abuse of Authority: Sergeant G  $\mathbf{C}$ searched C Allegation (I) Abuse of Authority: Police Officer C searched C Mr. G said immediately after the officers approached, PO J asked Mr. B if he had any weapons and Mr. But said no. PO June patted down Mr. Brown's waist, arms, and legs, and reached into a coin pocket inside one of Mr. Brown's front waist jean pockets, removing a tooth grill wrapped in a tissue before either placing it back into Mr. Brown's pocket or handing it to Mr. B During the frisk of Mr. B During the frisk of Mr. B During the incident on his cell then approached Mr. G and asked him if he "had anything on him." Mr. G did not recall whether PO J frisked him, but thought he probably did. PO J reached his hand into Mr. Green's sweatshirt pocket and removed a candy container. Mr. G that the container used to have marijuana in it. PO J the container back to Mr. God or placed it back inside his pocket. Mr. Bod Mr. You and were unavailable to the investigation (see IAs for contact attempts). PO Tofalli's body-worn camera footage begins after the initiation of this incident. At the 00:03 minute mark of the media player timestamp, visible at the bottom of the screen, PO J captured patting down Mr. Brown's waist and legs and placing a non-visible object inside Mr. Brown's front right pants pocket (**Board Review 03**). From 00:17 to 00:38, PO J Mr. Green's waist and legs. At 00:27, Mr. G is holding a small, clear cylindrical container.

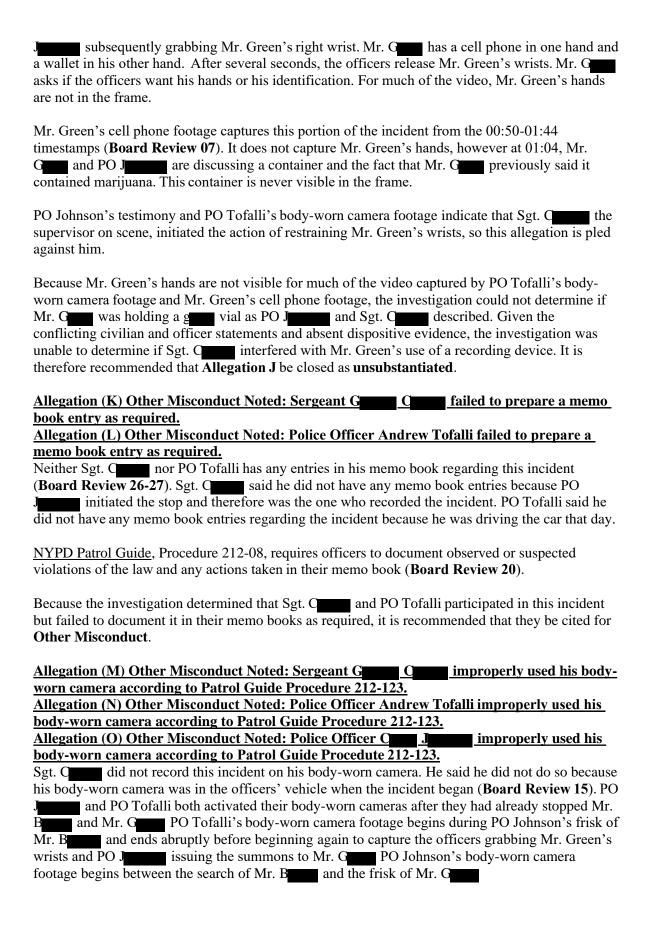
to five minutes later, because he initially felt that PO James could handle the situation on his own,

CCRB CTS – Confidential Page 2

CCRB Case # 201909824



CCRB Case # 201909824



to engaging in, or assisting another uniformed member of the service with actions, including searches of individuals and the issuing of summonses (Board Review 21). Because Sgt. C did not activate his body-worn camera while supervising the searches of Mr. and Mr. God or the issuing of a summons to Mr. God and because PO Jacob ar PO Tofalli both activated their body-worn cameras well after the start of taking enforcement action, it is recommended that they each be cited for **Other Misconduct**. Civilian and Officer CCRB Histories PO Tofalli has been a member of service for six years and has been a subject of two complaints comprised of three allegations, none of which were substantiated. PO Tofalli's CCRB history does not reflect any apparent pattern pertinent to this investigation. Mediation, Civil and Criminal Histories Mr. G declined to mediate this complaint. As of January 24, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (Board Review 23). Squad No.: Investigator: Inv. Caroline Moses 04/21/2020 Print Title & Name Signature Date IM Laura Kastner Squad Leader: \_\_ 04/21/2020 Print Title & Name Signature Date

NYPD Patrol Guide, Procedure 212-123, requires officers to activate their body-worn cameras prior